IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

CRL.A.No. 652 of 1999()

CC.348/1996 of CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA

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PETITIONER / COMPLAINANT

THE THODUPUZHA TALUK CHETHU THOZHILALI UNION (C.I.T.U.), REP. BY ITS GENERAL SECRETARY M. KUMARAN, S/O. MADHAVAN, PADIKKAPPARAMBIL HOUSE, KANJAR KARA , KUDAYATHOOR VILLAGE THODUPUZHA TALUK.

BY ADV. M/S.M.N.S.NAYAR & CO;

RESPONDENTS: ACCUSED & STATE

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1. **M.T.KUTTICHAN, MANATHANATHU HOUSE, VELLIYAMATTOM KARA, VELLIYAMATTOM VILLAGE, THODUPUZHA TALUK, IDUKKI DISTRICT.**

2. **STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.K.C.SANTHOSHKUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/02 / 2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl.Appeal No.652 OF 1999

Dated 7th February, 2007

JUDGMENT

This is an appeal filed against the order of acquittal. It is the case of the appellant/complainant that cheque issued for payment of bonus by the Toddy Shop Contractor was dishonoured for insufficiency of funds, and, therefore, he should be prosecuted under section 138 of the Negotiable Instruments Act. The complaint was dismissed as under the Payment of Bonus Act, maximum bonus payable is only 20% of the salary and the cheque was issued only because of coercion and not for a legally enforceable debt. Trial court has taken a possible view after considering the evidence adduced. Apart from the above, even though appeal was admitted as early as on 15.10.1999, notice is not served so far. Earlier, the notice sent was returned unserved. The defect is not yet cured. In the above circumstances, without prejudice to the right of the appellant or workers of the union in claiming unpaid bonus, if any, under section 33(C)(2) of the Industrial Disputes Act or provisions of the Payment of Bonus Act, this appeal is dismissed.

J.B.KOSHY
Judge

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